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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/822,348

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EXAMINER

RODRIGUEZ, WILLIAM H

ART UNIT

PAPER NUMBER

3746

MAIL DATE

DELIVERY MODE

06/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/822,348

Applicant(s)VISWANATHAN,
KRISHNAMURTHY**Examiner**

/William H. Rodríguez/

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 4,6-23 and 25-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,24 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/23/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of the species of figure 1-11 (claims 1-3, 5, 24 and 28) in the reply filed on 05/18/2007 is acknowledged.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-3, 5, 24 and 28 and are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 4 and 23 of **copending Application No. 10/822,351**. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons.

Claims 1-3, 5, 24 and 28 of the instant application are merely broader than claims 1, 2, 4 and 23 of the copending application '351. Claims 1-3, 5, 24 and 28 of the instant application recite the following elements: a nozzle having a downstream edge portion, said downstream edge

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portion forming a beveled edge comprising an angle of greater than 5 degrees. While, claims 1, 2, 4 and 23 of the copending application '351 recite the following elements: a fan nozzle and a nozzle having a downstream edge portion, said downstream edge portion forming a beveled edge comprising an angle of greater than 5 degrees. Thus, the elements recited by claims 1-3, 5, 24 and 28 of the instant application are contained within claims 1, 2, 4 and 23 of the copending application'351. Claims 1, 2, 4 and 23 of the copending application'351 are more specific because these recite a fan nozzle. Nevertheless, the more specific claims 1, 2, 4 and 23 of the copending application'351 "anticipates" the broader claim 1-3, 5, 24 and 28 of the instant application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5, 24 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Pinker (US 6,415,598).

Pinker (particularly figure 1) teaches a mixed flow exhaust nozzle comprising: a nozzle 2 having a downstream edge portion through which exhaust flow from said engine exits said nozzle, said downstream edge forming a beveled edge comprising an angle α between about 5-

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45 degrees relative to a reference plane extending orthogonal to a longitudinal axis of the primary nozzle, said beveled edge portion comprising an outermost edge portion.

Since Pinker has the same structure as claimed, it is inherent that Pinker's device would be able to perform the recited method steps.

Notice that the angle α (cl. 2 ll. 12-13) is within the claimed range of 5-45 degrees, for instance an α angle of 30 degrees is between 5-45 degrees as claimed.

6. Claims 1-3, 5, 24 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Mathews et al. (US 6,314,721).

Mathews (particularly figures 1 and 2) teaches a mixed flow exhaust nozzle comprising: a nozzle 20 having a downstream edge portion through which exhaust flow from said engine exits said nozzle, said downstream edge forming a beveled edge 52 comprising an angle α between about 5-45 degrees relative to a reference plane extending orthogonal to a longitudinal axis of the primary nozzle, said beveled edge portion comprising an outermost edge portion.

Since Mathews has the same structure as claimed, it is inherent that Mathews' device would be able to perform the recited method steps.

Notice that the angle show by Mathews is within the claimed range of 5-45 degrees, for instance in Mathews an angle of 30 degrees is between 5-45 degrees as claimed.

7. Claims 1-3, 5, 24 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Bhat et al. et al. (US 4,288,984).

Bhat (particularly figure 19) teaches a mixed flow exhaust nozzle comprising: a nozzle 7 having a downstream edge portion through which exhaust flow from said engine exits said

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nozzle, said downstream edge forming a beveled edge comprising an angle α between about 5-45 degrees relative to a reference plane extending orthogonal to a longitudinal axis of the primary nozzle, said beveled edge portion comprising an outermost edge portion.

Since Bhat has the same structure as claimed, it is inherent that Bhat's device would be able to perform the recited method steps.

Contact information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /William H. Rodríguez/ whose telephone number is 571-272-4831. The examiner can normally be reached on Monday-Friday 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William H. Rodríguez/
Primary Examiner
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